

Introduced by Senator Runner

February 18, 2005

An act to amend Sections 17171, 17173, 17180, 17199.4, 17230, 17464, 47605, 47605.6, 47607, 47634.2, and 47652 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as introduced, Runner. Charter schools.

(1) The existing California School Finance Authority Act (the act) establishes the California School Finance Authority for the purpose of assisting school districts and community college districts by providing financing for working capital, as defined, and capital improvements.

This bill would, in addition, provide that charter schools are eligible for assistance under the act, and would expand the definition of working capital to include lease or rent payments made for the use of an educational facility, with certain requirements. The bill would permit a participating school district, charter school, or county office of education to guarantee or provide for the payment of loans or leases in connection with securing financing or refinancing of projects, subject to certain requirements contained in existing law.

(2) Existing law grants the California School Finance Authority the authority to acquire, directly or by and through a participating district as its agent, by purchase solely from funds provided pursuant to the act, property, rights, rights-of-way, franchises, easements, and other interests in lands, with certain requirements.

This bill would delete the requirement that funds for such a purchase derive solely from funds provided pursuant to the act.

(3) Existing law permits the governing board of a school district to sell, at less than fair market value, a schoolsite deemed to be surplus

property of the district to local entities for use as a park or recreational purposes or open-space purposes, with certain requirements.

This bill would, in addition, permit such a sale of surplus property to a charter school that is authorized by the school district or that serves pupils who reside in the school district for use as a charter school facility, and would require a school district to give such a charter school priority in making an offer to sell surplus property.

(4) The Leroy F. Greene State School Building Lease-Purchase Law of 1976 prescribes priorities and procedures for the sale or lease with an option to purchase real property by a school district.

This bill would, in addition, require that the property first be offered for sale to a charter school that is authorized by the school district or that serves pupils who reside in the school district.

(5) Existing law prohibits a governing board from denying a petition to establish a charter school, unless it makes findings that the petition lacks specified elements.

The bill would, in addition, prohibit a governing board from denying a petition unless it makes findings that the petition lacks an assurance of compliance with either open meetings provisions or provisions governing the meetings of public benefit corporations contained in existing law, with certain exceptions.

The bill would require a charter school to provide the district of residence of a pupil who is expelled or leaves the charter school without graduating or completing the school year for any reason with a copy of the cumulative file of that pupil, thereby creating a state-mandated local program.

(6) Existing law provides for the renewal of a charter and specifies that a renewal shall be for a period of 5 years.

This bill would, instead, provide that a charter may be renewed for a period of no less than 5 years and no more than 15 years.

(7) Existing law provides that a charter school in its first year of operation is eligible to receive funding for the advance apportionment based on an estimate of average daily attendance for the current fiscal year, with certain requirements.

This bill would extend that eligibility to a charter school that projects a significant year-to-year growth, as defined by the bill.

(8) Existing law requires teachers in charter schools to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.

This bill would provide the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

(9) This bill also makes various technical, nonsubstantive changes to existing law.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17171 of the Education Code is
2 amended to read:

3 17171. The Legislature hereby finds and declares that it is in
4 the interest of the state and its people for the state to do all of the
5 following:

6 (a) Reconstruct, remodel, or replace existing school buildings
7 ~~which~~ *that* are educationally inadequate or ~~which~~ *that* do not
8 meet current structural safety requirements.

9 (b) Acquire new schoolsites and buildings to be made
10 available to school districts, *charter schools*, and community
11 college districts for the pupils of the public education system,
12 which is a matter of general concern inasmuch as the education
13 of the state's children is an obligation and function of the state.

14 (c) Assist school districts, *charter schools*, and community
15 college districts by providing access to financing for working
16 capital and capital improvements.

17 SEC. 2. Section 17173 of the Education Code is amended to
18 read:

19 17173. As used in this chapter, the following words and terms
20 shall have the following meanings, unless the context indicates or
21 requires another or different meaning or intent:

22 (a) "Act" means the California School Finance Authority Act.

(b) “Agent” means a county or city board of education or superintendent of schools acting with its consent on behalf of one or more school districts for any purpose of this chapter, and the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with its consent on behalf of one or more community college districts for any purpose of this chapter.

(c) “Authority” means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) “Bonds” means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(e) “Cost,” as applied to all or part of a project financed pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(f) “Educational facility” means any property, facility, structure, equipment, or furnishings used or operated in

1 conjunction with one or more public schools, *including charter*
2 *schools*, or community colleges, including, but not limited to, all
3 of the following:

- 4 (1) Classrooms.
- 5 (2) Auditoriums.
- 6 (3) Student centers.
- 7 (4) Administrative offices.
- 8 (5) Sports facilities.
- 9 (6) Maintenance, storage, or utility facilities.
- 10 (7) All necessary or usual attendant and related facilities and
11 equipment, including streets, parking, and supportive service
12 facilities or structures required or useful for the effective
13 operation of the educational facility.

14 (g) “Participating district” means a school district, *charter*
15 *school*, or community college district ~~which~~ *that* undertakes,
16 itself or through an agent, the financing or refinancing of a
17 project or of working capital pursuant to this chapter.
18 “Participating district” shall also be deemed to refer to the agent
19 to the extent the agent is acting on behalf of the school district,
20 *charter school*, or community college district for any purpose of
21 this chapter.

22 (h) “Project” means the acquisition, construction, expansion,
23 remodeling, renovation, improvement, furnishing, or equipping
24 of an educational facility to be financed or refinanced pursuant to
25 this chapter. “Project” may include any combination of the
26 foregoing undertaken jointly by any participating district with
27 one or more other participating districts.

28 (i) “Working capital” means funds to be used by, or on behalf
29 of, a participating district to pay maintenance or operating
30 expenses, or any other costs ~~which~~ *that* would be treated as an
31 expense item under generally accepted accounting principles in
32 connection with the ownership or operation of an educational
33 facility, including, but not limited to, all of the following:

- 34 (1) Reserves for maintenance or operating expenses.
- 35 (2) Interest for a period not to exceed one year on any loan for
36 working capital made pursuant to this chapter.
- 37 (3) Reserves for debt service, and any other costs necessary or
38 incidental to, financing pursuant to this chapter.

(j) “Certificate of participation” means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating district or districts.

(k) “Charter school” means a school established pursuant to Part 26.8 (commencing with Section 47600).

SEC. 3. Section 17180 of the Education Code is amended to read:

17180. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating district as its agent, by purchase ~~solely~~ from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands

1 lying under water, and riparian rights, located within the state
2 which the authority deems necessary or convenient for the
3 acquisition, construction, financing, or operation of a project.
4 The authority may do so upon the terms, and at the prices, it
5 considers reasonable and upon which it can agree with the owner,
6 and may take the title to the interest in the name of the authority
7 or in the name of a participating district as its agent.

8 (h) Receive and accept from any source loans, contributions,
9 or grants for, or in aid of, the construction, financing, or
10 refinancing of all or part of a project, in the form of money,
11 property, labor, or other things of value.

12 (i) Pursuant to an agreement between the authority and the
13 participating district, make, directly or through a lending
14 institution, secured or unsecured loans to, or purchase secured or
15 unsecured loans from, or purchase all or part of any rights to or
16 possibilities regarding the state share of funding for school
17 facilities approved by the State Allocation Board pursuant to
18 Chapter 12.5 (commencing with Section 17070.10). The
19 purchase of all or part of any rights to, or possibilities regarding,
20 the state contribution for funding for school facilities approved
21 by the State Allocation Board shall be limited to amounts
22 approved and funded or amounts approved but not yet funded
23 from proceeds of state bonds already authorized by the electors
24 but not yet issued. Loans or purchases completed pursuant to this
25 section may be used for either of the following purposes:

26 (1) To finance a project or provide working capital. ~~No~~ A loan
27 to finance a project shall *not* exceed the total cost of the project,
28 as determined by the participating district and approved by the
29 authority.

30 (2) To refinance indebtedness incurred by the participating
31 district in connection with projects undertaken, educational
32 facilities acquired, or working capital financed.

33 (j) Upon the terms and conditions the authority deems proper,
34 lease a project being financed pursuant to this chapter to a
35 participating district, and charge and collect rent therefor. The
36 authority may terminate a lease pursuant to this subdivision upon
37 the lessee's failure to comply with any of its obligations under
38 the lease. The lease may include any of the following provisions:

1 (1) That the lessee shall have the option to renew the term of
2 the lease for the period or periods, and at the rent, determined by
3 the authority, or to purchase any or all of the project.

4 (2) That upon payment by the participating district of all of the
5 indebtedness incurred by the authority for the financing of the
6 project or for the refinancing of the district's outstanding
7 indebtedness, the authority may convey any or all of the project
8 to the lessee or lessees, with or without further consideration.

9 (k) Charge and equitably apportion among participating
10 districts its administrative costs and expenses incurred pursuant
11 to this chapter.

12 (l) (1) Obtain, or aid in obtaining, from any state or federal
13 agency or any private company, any insurance, guarantee, letter,
14 or line of credit regarding, or of, or for, the payment or
15 repayment of all or part of the interest, principal, or both, on any
16 loan, lease, or obligation, or any instrument evidencing or
17 securing the same, made or entered into pursuant to this chapter,
18 or on any bonds issued pursuant to this chapter.

19 (2) Notwithstanding any other provision of this chapter, enter
20 into any agreement, contract, or any other instrument regarding
21 any insurance, guarantee, letter, or line of credit specified in
22 paragraph (1), and accept payment in the manner and form
23 provided therein in the event of default by a participating district.

24 (3) Assign any insurance, guarantee, letter, or line of credit
25 specified in paragraph (1) as security for bonds issued by the
26 authority.

27 (m) Enter into any agreements or contracts, including, but not
28 limited to, agreements for liquidity or credit enhancement,
29 execute any instruments, and any other act or thing necessary,
30 convenient, or desirable for the purposes of the authority or to
31 carry out any express power granted the authority pursuant to this
32 chapter.

33 (n) At the discretion of the authority, invest any moneys held
34 in reserve or in sinking funds, or any moneys not required for
35 immediate use or disbursement, in obligations authorized by the
36 resolution authorizing the bonds secured by the investment, or by
37 law governing the investment of trust funds in the custody of the
38 Treasurer.

39 SEC. 4. Section 17199.4 of the Education Code is amended to
40 read:

17199.4. (a) Notwithstanding any other law, any participating school district, *charter school*, or county office of education, in connection with securing financing or refinancing of projects, except working capital, pursuant to this chapter may elect to guarantee or provide for payment of the bonds, *loans, or leases* in accordance with the following conditions:

(1) If a participating school district, *charter school*, or county office of education adopts a resolution by a majority vote of its board to participate under this section, it shall provide notice to the Controller of that election. The notice shall include a schedule for the repayment of principal and interest on the bonds, *loans, or leases* and identify a trustee appointed by the participating school district, *charter school*, or county office of education or the authority for purposes of this section. *For purposes of this subdivision, a state entity may be identified to perform the function of the trustee.* The notice shall be provided not later than the date of issuance of the bonds *or the commencement of the term of the loan or lease.*

(2) If, for any reason, the school district, *charter school*, or county office of education will not make the payment of principal and interest *or a lease payment* at the time the payment is required, the participating school district, *charter school*, or county office of education shall notify the trustee of that fact and of the amount of the deficiency. The trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee in the amount of the deficiency for the purpose of making the required payment of principal or interest, or both, *or the required lease payment.* The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment to the district pursuant to Section 42238 or to the county office of education pursuant to Section 2558.

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating school district, *charter school*, or county office of education may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation in the last sentence of

1 paragraph (3), make apportionments to the trustee of those
2 amounts on the specified date for the purpose of making those
3 transfers.

4 (b) The amount apportioned for a school district, *charter*
5 *school*, or for a county office of education pursuant to this
6 section shall be deemed to be an allocation to the district, *charter*
7 *school*, or the county office of education for purposes of
8 subdivision (b) of Section 8 of Article XVI of the California
9 Constitution. For purposes of computing revenue limits pursuant
10 to Section 42238 for any school district or pursuant to Section
11 2558 for any county office of education, the revenue limit for any
12 fiscal year in which funds are apportioned for the district or for
13 the county office of education pursuant to this section shall
14 include any amounts apportioned by the Controller pursuant to
15 paragraphs (3) and (4) of subdivision (a).

16 (c) (1) School districts, *charter schools*, or county offices of
17 education that elect to participate under this section shall apply to
18 the authority. The authority shall consider each of the following
19 priorities in making funds available:

20 (A) First priority shall be given to school districts, *charter*
21 *schools*, or county offices of education that apply for funding for
22 instructional classroom space.

23 (B) Second priority shall be given to school districts, *charter*
24 *schools*, or county offices of education that apply for funding of
25 modernization of instructional classroom space.

26 (C) Third priority shall be given to all other eligible costs, as
27 defined in Section 17173.

28 (2) The authority shall prioritize applications at appropriate
29 intervals.

30 (3) A school district electing to participate under this section
31 that has applied for revenue bond moneys for the purposes of
32 joint venture school facilities construction projects, pursuant to
33 Article 5 (commencing with Section 17060) of Chapter 12, shall
34 not be subject to the priorities set forth in paragraph (1).

35 (d) This section shall not be construed to make the State of
36 California liable for any payment of principal or interest on any
37 bonds or certificates of participation within the meaning of
38 Section 1 of Article XVI of the California Constitution or
39 otherwise, except as expressly provided in this section.

(e) A school district that has a qualified or negative certification pursuant to Section 42131, or a county office of education that has a qualified or negative certification pursuant to Section 1240, may not participate under this section.

~~(f) The authority shall report to the Legislature by January 1, 2001, on the number of school districts or county offices of education electing to participate under this section and on the financial stability of the participating school districts and county offices of education.~~

SEC. 5. Section 17230 of the Education Code is amended to read:

17230. (a) Notwithstanding the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of this part and in addition to the requirements placed upon school districts pursuant to Section 54222 of the Government Code, the governing board of any school district may sell, for less than fair market value, any schoolsite that is deemed to be surplus property of the district, ~~to any a charter school that is authorized by the school district or that serves pupils who reside in the school district for use as a charter school facility, or a park~~ district, city, or county in which the school district is wholly or partially situated for use or partial use as park or recreational purposes or open-space purposes, if the governing board adopts a resolution specifying that it will sell or transfer the property for less than fair market value to such an entity for that purpose.

(b) The offer to sell *surplus property* shall be made in writing, but the terms by which the property may be sold or transferred need not be specifically provided.

(c) *In making an offer to sell surplus property the governing board of a school district shall give priority to a charter school described in subdivision (a).*

SEC. 6. Section 17464 of the Education Code is amended to read:

17464. Except as provided for in Article 2 (commencing with Section 17230) of Chapter 1, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures:

(a) *First, notwithstanding any other law, the property shall be offered to a charter school that is authorized by the school district or that serves pupils who reside in the school district.*

1 (b) ~~First~~*Second*, the property shall be offered for park or
2 recreational purposes pursuant to Article 8 (commencing with
3 Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of
4 the Government Code, in any instance in which that article is
5 applicable.

6 ~~(b)~~

7 (c) ~~Second~~*Third*, the property shall be offered for sale or lease
8 with an option to purchase, at fair market value in each of the
9 following ways:

10 (1) In writing, to the Director of General Services, the Regents
11 of the University of California, the Trustees of the California
12 State University, the county and city in which the property is
13 situated, to any public housing authority in the county in which
14 the property is situated, and to any entity referenced in paragraph
15 (2) that has submitted a written request to the school district to be
16 directly notified of the offer for sale or lease with an option to
17 purchase the real property by the district.

18 (2) By public notice to any public district, public authority,
19 public agency, public corporation, or any other political
20 subdivision in this state, to the federal government, and to
21 nonprofit charitable corporations existing on December 31, 1979,
22 and organized pursuant to Part 3 (commencing with Section
23 10200) of Division 2 of Title 1 of the Corporations Code then in
24 effect or organized on or after January 1, 1980, as a public
25 benefit corporation under Part 2 (commencing with Section
26 5110) of Division 2 of Title 1 of the Corporations Code. Public
27 notice shall consist of at least publishing its intention to dispose
28 of the real property in a newspaper of general circulation within
29 the district, or if there is no newspaper of general circulation in
30 the district, then in any newspaper of general circulation that is
31 regularly circulated in the district. The notice shall specify that
32 the property is being made available to all public districts, public
33 authorities, public agencies, and other political subdivisions or
34 public corporations in this state, and to other nonprofit charitable
35 or nonprofit public benefit corporations.

36 Publication of notice pursuant to this section shall be once each
37 week for three successive weeks. Three publications in a
38 newspaper regularly published once a week or more often, with
39 at least five days intervening between the respective publication
40 dates not counting the publication dates, are sufficient. The

1 written notice required by paragraph (1) shall be mailed no later
2 than the date of the second published notice.

3 The entity desiring to purchase or lease the property shall,
4 within 60 days after the third publication of notice, notify the
5 school district of its intent to purchase or lease the property. If
6 the entity desiring to purchase or lease the property and the
7 district are unable to arrive at a mutually satisfactory price or
8 lease payment during the 60-day period, the property may be
9 disposed of as otherwise provided in this section. In the event the
10 district receives offers from more than one entity pursuant to this
11 subdivision, the school district governing board may determine
12 which of these offers to accept.

13 ~~(e)~~

14 ~~(d)~~ *Fourth*, the property may be disposed of in any other
15 manner authorized by law.

16 ~~This section shall become operative January 1, 1988.~~

17 SEC. 7. Section 47605 of the Education Code is amended to
18 read:

19 47605. (a) (1) Except as set forth in paragraph (2), a petition
20 for the establishment of a charter school within any school
21 district may be circulated by any one or more persons seeking to
22 establish the charter school. A petition for the establishment of a
23 charter school shall identify a single charter school that will
24 operate within the geographic boundaries of that school district.
25 A charter school may propose to operate at multiple sites within
26 the school district, as long as each location is identified in the
27 charter school petition. The petition may be submitted to the
28 governing board of the school district for review after either of
29 the following conditions are met:

30 (A) The petition has been signed by a number of parents or
31 guardians of pupils that is equivalent to at least one-half of the
32 number of pupils that the charter school estimates will enroll in
33 the school for its first year of operation.

34 (B) The petition has been signed by a number of teachers that
35 is equivalent to at least one-half of the number of teachers that
36 the charter school estimates will be employed at the school
37 during its first year of operation.

38 (2) In the case of a petition for the establishment of a charter
39 school through the conversion of an existing public school, that
40 would not be eligible for a loan pursuant to subdivision (b) of

1 Section 41365, the petition may be circulated by any one or more
2 persons seeking to establish the converted charter school. The
3 petition may be submitted to the governing board of the school
4 district for review after the petition has been signed by not less
5 than 50 percent of the permanent status teachers currently
6 employed at the public school to be converted.

7 (3) A petition shall include a prominent statement that a
8 signature on the petition means that the parent or guardian is
9 meaningfully interested in having his or her child, or ward, attend
10 the charter school, or in the case of a teacher's signature, means
11 that the teacher is meaningfully interested in teaching at the
12 charter school. The proposed charter shall be attached to the
13 petition.

14 (4) After receiving approval of its petition, a charter school
15 that proposes to establish operations at one or more additional
16 sites within the jurisdictional boundaries of the school district
17 shall request a material revision to its charter and shall notify the
18 governing board of the school district of those additional
19 locations. The governing board of the school district shall
20 consider whether to approve those additional locations at an
21 open, public meeting. If the additional locations are approved by
22 the governing board of the school districts, they shall be a
23 material revision to the charter school's charter.

24 (5) Notwithstanding subdivision (a), a charter school that is
25 unable to locate within the jurisdiction of the chartering school
26 district may establish one site outside the boundaries of the
27 school district, but within the county within which that school
28 district is located, if the school district where the charter school
29 proposes to operate is notified in advance of the charter petition
30 approval, the county superintendent of schools and the
31 ~~Superintendent of Public Instruction~~ are notified of the location
32 of the charter school before it commences operations and either
33 of the following circumstances exist:

34 (A) The school has attempted to locate a single site or facility
35 to house the entire program but such a facility or site is
36 unavailable in the area in which the school chooses to locate.

37 (B) The site is needed for temporary use during a construction
38 or expansion project.

39 (6) Commencing January 1, 2003, a petition to establish a
40 charter school may not be approved to serve pupils in a grade

1 level that is not served by the school district of the governing
2 board considering the petition, unless the petition proposes to
3 serve pupils in all of the grade levels served by that school
4 district.

5 (b) No later than 30 days after receiving a petition, in
6 accordance with subdivision (a), the governing board of the
7 school district shall hold a public hearing on the provisions of the
8 charter, at which time the governing board of the school district
9 shall consider the level of support for the petition by teachers
10 employed by the district, other employees of the district, and
11 parents. Following review of the petition and the public hearing,
12 the governing board of the school district shall either grant or
13 deny the charter within 60 days of receipt of the petition,
14 provided, however, that the date may be extended by an
15 additional 30 days if both parties agree to the extension. In
16 reviewing petitions for the establishment of charter schools
17 pursuant to this section, the chartering authority shall be guided
18 by the intent of the Legislature that charter schools are and
19 should become an integral part of the California educational
20 system and that establishment of charter schools should be
21 encouraged. A school district governing board shall grant a
22 charter for the operation of a school under this part if it is
23 satisfied that granting the charter is consistent with sound
24 educational practice. The governing board of the school district
25 shall not deny a petition for the establishment of a charter school
26 unless it makes written factual findings, specific to the particular
27 petition, setting forth specific facts to support one or more of the
28 following findings:

29 (1) The charter school presents an unsound educational
30 program for the pupils to be enrolled in the charter school.

31 (2) The petitioners are demonstrably unlikely to successfully
32 implement the program set forth in the petition.

33 (3) The petition does not contain the number of signatures
34 required by subdivision (a).

35 (4) The petition does not contain an affirmation of each of the
36 conditions described in subdivision (d).

37 (5) The petition does not contain reasonably comprehensive
38 descriptions of all of the following:

39 (A) (i) A description of the educational program of the school,
40 designed, among other things, to identify those whom the school

1 is attempting to educate, what it means to be an “educated
2 person” in the 21st century, and how learning best occurs. The
3 goals identified in that program shall include the objective of
4 enabling pupils to become self-motivated, competent, and
5 lifelong learners.

6 (ii) If the proposed school will serve high school pupils, a
7 description of how the charter school will inform parents about
8 the transferability of courses to other public high schools and the
9 eligibility of courses to meet college entrance requirements.
10 Courses offered by the charter school that are accredited by the
11 Western Association of Schools and Colleges may be considered
12 transferable and courses approved by the University of California
13 or the California State University as creditable under the “A” to
14 “G” admissions criteria may be considered to meet college
15 entrance requirements.

16 (B) The measurable pupil outcomes identified for use by the
17 charter school. “Pupil outcomes,” for purposes of this part,
18 means the extent to which all pupils of the school demonstrate
19 that they have attained the skills, knowledge, and attitudes
20 specified as goals in the school’s educational program.

21 (C) The method by which pupil progress in meeting those
22 pupil outcomes is to be measured.

23 (D) The governance structure of the school, including, but not
24 limited to, the process to be followed by the school to ensure
25 parental involvement.

26 (E) The qualifications to be met by individuals to be employed
27 by the school.

28 (F) The procedures that the school will follow to ensure the
29 health and safety of pupils and staff. These procedures shall
30 include the requirement that each employee of the school furnish
31 the school with a criminal record summary as described in
32 Section 44237.

33 (G) The means by which the school will achieve a racial and
34 ethnic balance among its pupils that is reflective of the general
35 population residing within the territorial jurisdiction of the school
36 district to which the charter petition is submitted.

37 (H) Admission requirements, if applicable.

38 (I) The manner in which annual, independent, financial audits
39 shall be conducted, which shall employ generally accepted
40 ~~accounting principles~~ *auditing standards*, and the manner in

1 which audit exceptions and deficiencies shall be resolved to the
2 satisfaction of the chartering authority.

3 (J) The procedures by which pupils can be suspended or
4 expelled.

5 (K) The manner by which staff members of the charter schools
6 will be covered by the State Teachers' Retirement System, the
7 Public Employees' Retirement System, or federal social security.

8 (L) The public school attendance alternatives for pupils
9 residing within the school district who choose not to attend
10 charter schools.

11 (M) A description of the rights of any employee of the school
12 district upon leaving the employment of the school district to
13 work in a charter school, and of any rights of return to the school
14 district after employment at a charter school.

15 (N) The procedures to be followed by the charter school and
16 the entity granting the charter to resolve disputes relating to
17 provisions of the charter.

18 (O) A declaration whether or not the charter school shall be
19 deemed the exclusive public school employer of the employees
20 of the charter school for the purposes of the Educational
21 Employment Relations Act (Chapter 10.7 (commencing with
22 Section 3540) of Division 4 of Title 1 of the Government Code).

23 (P) A description of the procedures to be used if the charter
24 school closes. The procedures shall ensure a final audit of the
25 school to determine the disposition of all assets and liabilities of
26 the charter school, including plans for disposing of any net assets
27 and for the maintenance and transfer of pupil records.

28 *(Q) An assurance of compliance with either the Ralph M.*
29 *Brown Act (Chapter 9 (commencing with Section 54950) of*
30 *Division 2 of Title 5 of the Government Code) or Chapter 5*
31 *(commencing with Section 5510) of Part 2 of Division 2 of Title 1*
32 *of the Corporations Code. This subparagraph does not apply to*
33 *charter schools operated by entities governed by the*
34 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
35 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
36 *the Government Code).*

37 (c) (1) Charter schools shall meet all statewide standards and
38 conduct the pupil assessments required pursuant to Section
39 60605 and any other statewide standards authorized in statute or

1 pupil assessments applicable to pupils in noncharter public
2 schools.

3 (2) Charter schools shall, on a regular basis, consult with their
4 parents and teachers regarding the school's educational
5 programs.

6 (d) (1) In addition to any other requirement imposed under
7 this part, a charter school shall be nonsectarian in its programs,
8 admission policies, employment practices, and all other
9 operations, shall not charge tuition, and shall not discriminate
10 against any pupil on the basis of ethnicity, national origin,
11 gender, or disability. Except as provided in paragraph (2),
12 admission to a charter school shall not be determined according
13 to the place of residence of the pupil, or of his or her parent or
14 guardian, within this state, except that any existing public school
15 converting partially or entirely to a charter school under this part
16 shall adopt and maintain a policy giving admission preference to
17 pupils who reside within the former attendance area of that
18 public school.

19 (2) (A) A charter school shall admit all pupils who wish to
20 attend the school.

21 (3) *The charter school shall provide, upon request, the school*
22 *district of residence of a pupil who is expelled or leaves the*
23 *charter school without graduating or completing the school year*
24 *for any reason, with a copy of the cumulative file of the pupil,*
25 *including a transcript of grades or report card, and health*
26 *information.*

27 (B) However, if the number of pupils who wish to attend the
28 charter school exceeds the school's capacity, attendance, except
29 for existing pupils of the charter school, shall be determined by a
30 public random drawing. Preference shall be extended to pupils
31 currently attending the charter school and pupils who reside in
32 the district except as provided for in Section 47614.5. Other
33 preferences may be permitted by the chartering authority on an
34 individual school basis and only if consistent with the law.

35 (C) In the event of a drawing, the chartering authority shall
36 make reasonable efforts to accommodate the growth of the
37 charter school and, in no event, shall take any action to impede
38 the charter school from expanding enrollment to meet pupil
39 demand.

1 (e) No governing board of a school district shall require any
2 employee of the school district to be employed in a charter
3 school.

4 (f) No governing board of a school district shall require any
5 pupil enrolled in the school district to attend a charter school.

6 (g) The governing board of a school district shall require that
7 the petitioner or petitioners provide information regarding the
8 proposed operation and potential effects of the school, including,
9 but not limited to, the facilities to be utilized by the school, the
10 manner in which administrative services of the school are to be
11 provided, and potential civil liability effects, if any, upon the
12 school and upon the school district. The description of the
13 facilities to be used by the charter school shall specify where the
14 school intends to locate. The petitioner or petitioners shall also be
15 required to provide financial statements that include a proposed
16 first-year operational budget, including startup costs, and
17 cashflow and financial projections for the first three years of
18 operation.

19 (h) In reviewing petitions for the establishment of charter
20 schools within the school district, the school district governing
21 board shall give preference to petitions that demonstrate the
22 capability to provide comprehensive learning experiences to
23 pupils identified by the petitioner or petitioners as academically
24 low achieving pursuant to the standards established by the ~~State~~
25 ~~Department of Education~~ *department* under Section 54032.

26 (i) Upon the approval of the petition by the governing board of
27 the school district, the petitioner or petitioners shall provide
28 written notice of that approval, including a copy of the petition,
29 to the applicable county superintendent of schools, the ~~State~~
30 ~~Department of Education~~ *department*, and the State Board of
31 Education.

32 (j) (1) If the governing board of a school district denies a
33 petition, the petitioner may elect to submit the petition for the
34 establishment of a charter school to the county board of
35 education. The county board of education shall review the
36 petition pursuant to subdivision (b). If the petitioner elects to
37 submit a petition for establishment of a charter school to the
38 county board of education and the county board of education
39 denies the petition, the petitioner may file a petition for
40 establishment of a charter school with the State Board of

1 Education, and the state board may approve the petition, in
2 accordance with subdivision (b). Any charter school that receives
3 approval of its petition from a county board of education or from
4 the State Board of Education on appeal shall be subject to the
5 same requirements concerning geographic location that it would
6 otherwise be subject to if it receives approval from the entity to
7 whom it originally submits its petition. A charter petition that is
8 submitted to either a county board of education or to the State
9 Board of Education shall meet all otherwise applicable petition
10 requirements, including the identification of the proposed site or
11 sites where the charter school will operate.

12 (2) In assuming its role as a chartering agency, the State Board
13 of Education shall develop criteria to be used for the review and
14 approval of charter school petitions presented to the State Board
15 of Education. The criteria shall address all elements required for
16 charter approval, as identified in subdivision (b) of Section
17 47605 and shall define “reasonably comprehensive” as used in
18 paragraph (5) of subdivision (b) of Section 47605 in a way that is
19 consistent with the intent of the ~~Charter Schools Act of 1992~~ *this*
20 *part*. Upon satisfactory completion of the criteria, the State Board
21 of Education shall adopt the criteria on or before June 30, 2001.

22 (3) A charter school for which a charter is granted by either
23 the county board of education or the State Board of Education
24 based on an appeal pursuant to this subdivision shall qualify fully
25 as a charter school for all funding and other purposes of this part.

26 (4) If either the county board of education or the State Board
27 of Education fails to act on a petition within 120 days of receipt,
28 the decision of the governing board of the school district, to deny
29 a petition shall, thereafter, be subject to judicial review.

30 (5) The State Board of Education shall adopt regulations
31 implementing this subdivision.

32 (6) Upon the approval of the petition by the county board of
33 education, the petitioner or petitioners shall provide written
34 notice of that approval, including a copy of the petition to the
35 ~~State Department of Education~~ *department* and the State Board
36 of Education.

37 (k) (1) The State Board of Education may, by mutual
38 agreement, designate its supervisory and oversight
39 responsibilities for a charter school approved by the State Board
40 of Education to any local education agency in the county in

1 which the charter school is located or to the governing board of
2 the school district that first denied the petition.

3 (2) The designated local education agency shall have all
4 monitoring and supervising authority of a chartering agency,
5 including, but not limited to, powers and duties set forth in
6 Section 47607, except the power of revocation, which shall
7 remain with the State Board of Education.

8 (3) A charter school that has been granted its charter through
9 an appeal to the State Board of Education and elects to seek
10 renewal of its charter shall, prior to expiration of the charter,
11 submit its petition for renewal to the governing board of the
12 school district that initially denied the charter. If the governing
13 board of the school district denies the school's petition for
14 renewal, the school may petition the State Board of Education for
15 renewal of its charter.

16 (l) Teachers in charter schools shall be required to hold a
17 Commission on Teacher Credentialing certificate, permit, or
18 other document equivalent to that which a teacher in other public
19 schools would be required to hold. These documents shall be
20 maintained on file at the charter school and shall be subject to
21 periodic inspection by the chartering authority. It is the intent of
22 the Legislature that charter schools be given flexibility with
23 regard to noncore, noncollege preparatory courses.

24 (m) A charter school shall transmit a copy of its annual,
25 independent, financial audit report for the preceding fiscal year,
26 as described in subparagraph (I) of paragraph (5) of subdivision
27 (b), to its chartering entity, the Controller, the county
28 superintendent of schools of the county in which the charter
29 school is sited, unless the county board of education of the
30 county in which the charter school is sited is the chartering
31 entity, and the ~~State Department of Education~~ *department* by
32 December 15 of each year. This subdivision ~~shall~~ *does* not apply
33 if the audit of the charter school is encompassed in the audit of
34 the chartering entity pursuant to Section 41020.

35 SEC. 8. Section 47605.6 of the Education Code is amended to
36 read:

37 47605.6. (a) (1) In addition to the authority provided by
38 Section 47605.5, a county board of education may also approve a
39 petition for the operation of a charter school that operates at one
40 or more sites within the geographic boundaries of the county and

1 that provides instructional services that are not generally
2 provided by a county office of education. A county board of
3 education may only approve a countywide charter if it finds, in
4 addition to the other requirements of this section, that the
5 educational services to be provided by the charter school will
6 offer services to a pupil population that will benefit from those
7 services and that cannot be served as well by a charter school that
8 operates in only one school district in the county. A petition for
9 the establishment of a countywide charter school pursuant to this
10 subdivision may be circulated throughout the county by any one
11 or more persons seeking to establish the charter school. The
12 petition may be submitted to the county board of education for
13 review after either of the following conditions are met:

14 (A) The petition has been signed by a number of parents or
15 guardians of pupils residing within the county that is equivalent
16 to at least one-half of the number of pupils that the charter school
17 estimates will enroll in the school for its first year of operation
18 and each of the school districts where the charter school
19 petitioner proposes to operate a facility has received at least 30
20 days notice of the petitioner's intent to operate a school pursuant
21 to this section.

22 (B) The petition has been signed by a number of teachers that
23 is equivalent to at least one-half of the number of teachers that
24 the charter school estimates will be employed at the school
25 during its first year of operation and each of the school districts
26 where the charter school petitioner proposes to operate a facility
27 has received at least 30 days notice of the petitioner's intent to
28 operate a school pursuant to this section.

29 (2) An existing public school may not be converted to a
30 charter school in accordance with this section.

31 (3) After receiving approval of its petition, a charter school
32 that proposes to establish operations at additional sites within the
33 geographic boundaries of the county board of education shall
34 notify the school districts where those sites will be located. The
35 charter school shall also request a material revision of its charter
36 by the county board of education that approved its charter and the
37 county board shall consider whether to approve those additional
38 locations at an open, public meeting, held no sooner than 30 days
39 following notification of the school districts where the sites will

1 be located. If approved, the location of the approved sites shall be
2 a material revision of the school's approved charter.

3 (4) A petition shall include a prominent statement indicating
4 that a signature on the petition means that the parent or guardian
5 is meaningfully interested in having his or her child or ward
6 attend the charter school, or in the case of a teacher's signature,
7 means that the teacher is meaningfully interested in teaching at
8 the charter school. The proposed charter shall be attached to the
9 petition.

10 (b) No later than 60 days after receiving a petition, in
11 accordance with subdivision (a), the county board of education
12 shall hold a public hearing on the provisions of the charter, at
13 which time the county board of education shall consider the level
14 of support for the petition by teachers, parents or guardians, and
15 the school districts where the charter school petitioner proposes
16 to place school facilities. Following review of the petition and the
17 public hearing, the county board of education shall either grant or
18 deny the charter within 90 days of receipt of the petition.
19 However, this date may be extended by an additional 30 days if
20 both parties agree to the extension. A county board of education
21 may impose any additional requirements beyond those required
22 by this section that it considers necessary for the sound operation
23 of a countywide charter school. A county board of education may
24 grant a charter for the operation of a school under this part only if
25 the board is satisfied that granting the charter is consistent with
26 sound educational practice and that the charter school has
27 reasonable justification for why it could not be established by
28 petition to a school district pursuant to Section 47605. The
29 county board of education shall deny a petition for the
30 establishment of a charter school if the board finds, one or more
31 of the following:

32 (1) The charter school presents an unsound educational
33 program for the pupils to be enrolled in the charter school.

34 (2) The petitioners are demonstrably unlikely to successfully
35 implement the program set forth in the petition.

36 (3) The petition does not contain the number of signatures
37 required by subdivision (a).

38 (4) The petition does not contain an affirmation of each of the
39 conditions described in subdivision (d).

1 (5) The petition does not contain reasonably comprehensive
2 descriptions of all of the following:

3 (A) A description of the educational program of the school,
4 designed, among other things, to identify those whom the school
5 is attempting to educate, what it means to be an “educated
6 person” in the 21st century, and how learning best occurs. The
7 goals identified in that program shall include the objective of
8 enabling pupils to become self-motivated, competent, and
9 lifelong learners.

10 (B) The measurable pupil outcomes identified for use by the
11 charter school. “Pupil outcomes,” for purposes of this part,
12 means the extent to which all pupils of the school demonstrate
13 that they have attained the skills, knowledge, and attitudes
14 specified as goals in the school’s educational program.

15 (C) The method by which pupil progress in meeting those
16 pupil outcomes is to be measured.

17 (D) The location of each charter school facility that the
18 petitioner proposes to operate.

19 (E) The governance structure of the school, including, but not
20 limited to, the process to be followed by the school to ensure
21 parental involvement.

22 (F) The qualifications to be met by individuals to be employed
23 by the school.

24 (G) The procedures that the school will follow to ensure the
25 health and safety of pupils and staff. These procedures shall
26 include the requirement that each employee of the school furnish
27 the school with a criminal record summary as described in
28 Section 44237.

29 (H) The means by which the school will achieve a racial and
30 ethnic balance among its pupils that is reflective of the general
31 population residing within the territorial jurisdiction of the school
32 district to which the charter petition is submitted.

33 (I) The manner in which annual, independent, financial audits
34 shall be conducted, in accordance with regulations established by
35 the State Board of Education, and the manner in which audit
36 exceptions and deficiencies shall be resolved.

37 (J) The procedures by which pupils can be suspended or
38 expelled.

1 (K) The manner by which staff members of the charter schools
2 will be covered by the State Teachers' Retirement System, the
3 Public Employees' Retirement System, or federal social security.

4 (L) The procedures to be followed by the charter school and
5 the county board of education to resolve disputes relating to
6 provisions of the charter.

7 (M) A declaration whether or not the charter school shall be
8 deemed the exclusive public school employer of the employees
9 of the charter school for the purposes of the Educational
10 Employment Relations Act (Chapter 10.7 (commencing with
11 Section 3540) of Division 4 of Title 1 of the Government Code).

12 (6) Any other basis that the board finds justifies the denial of
13 the petition.

14 (c) A county board of education that approves a petition for
15 the operation of a countywide charter may, as a condition of
16 charter approval, enter into an agreement with a third party, at the
17 expense of the charter school, to oversee, monitor, and report to
18 the county board of education on the operations of the charter
19 school. The county board of education may prescribe the aspects
20 of the charter school's operations to be monitored by the third
21 party and may prescribe appropriate requirements regarding the
22 reporting of information concerning the operations of the charter
23 school to the county board of education.

24 (d) (1) Charter schools shall meet all statewide standards and
25 conduct the pupil assessments required pursuant to Section
26 60605 and any other statewide standards authorized in statute or
27 pupil assessments applicable to pupils in noncharter public
28 schools.

29 (2) Charter schools shall on a regular basis consult with their
30 parents and teachers regarding the school's educational
31 programs.

32 (e) (1) In addition to any other requirement imposed under
33 this part, a charter school shall be nonsectarian in its programs,
34 admission policies, employment practices, and all other
35 operations, shall not charge tuition, and shall not discriminate
36 against any pupil on the basis of ethnicity, national origin,
37 gender, or disability. Except as provided in paragraph (2),
38 admission to a charter school shall not be determined according
39 to the place of residence of the pupil, or of his or her parent or
40 guardian, within this state.

1 (2) (A) A charter school shall admit all pupils who wish to
2 attend the school.

3 (B) However, if the number of pupils who wish to attend the
4 charter school exceeds the school's capacity, attendance, except
5 for existing pupils of the charter school, shall be determined by a
6 public random drawing. Preference shall be extended to pupils
7 currently attending the charter school and pupils who reside in
8 the county except as provided for in Section 47614.5. Other
9 preferences may be permitted by the chartering authority on an
10 individual school basis and only if consistent with the law.

11 (C) In the event of a drawing, the county board of education
12 shall make reasonable efforts to accommodate the growth of the
13 charter school and, in no event, shall take any action to impede
14 the charter school from expanding enrollment to meet pupil
15 demand.

16 (f) No county board of education shall require any employee
17 of the county or a school district to be employed in a charter
18 school.

19 (g) No county board of education shall require any pupil
20 enrolled in a county program to attend a charter school.

21 (h) The county board of education shall require that the
22 petitioner or petitioners provide information regarding the
23 proposed operation and potential effects of the school, including,
24 but not limited to, the facilities to be utilized by the school, the
25 manner in which administrative services of the school are to be
26 provided, and potential civil liability effects, if any, upon the
27 school, any school district where the charter school may operate
28 and upon the county board of education. The petitioner or
29 petitioners shall also be required to provide financial statements
30 that include a proposed first-year operational budget, including
31 startup costs, and cash-flow and financial projections for the first
32 three years of operation.

33 (i) In reviewing petitions for the establishment of charter
34 schools within the county, the county board of education shall
35 give preference to petitions that demonstrate the capability to
36 provide comprehensive learning experiences to pupils identified
37 by the petitioner or petitioners as academically low-achieving
38 pursuant to the standards established by the State Department of
39 Education under Section 54032.

1 (j) Upon the approval of the petition by the county board of
2 education, the petitioner or petitioners shall provide written
3 notice of that approval, including a copy of the petition, to the
4 school districts within the county, the Superintendent of Public
5 Instruction and to the State Board of Education.

6 (k) If a county board of education denies a petition, the
7 petitioner may not elect to submit the petition for the
8 establishment of the charter school to the State Board of
9 Education.

10 (l) Teachers in charter schools shall be required to hold a
11 Commission on Teacher Credentialing certificate, permit, or
12 other document equivalent to that which a teacher in other public
13 schools would be required to hold. These documents shall be
14 maintained on file at the charter school and shall be subject to
15 periodic inspection by the chartering authority. *It is the intent of*
16 *the Legislature that charter schools be given flexibility with*
17 *regard to noncore, noncollege preparatory courses.*

18 (m) A charter school shall transmit a copy of its annual,
19 independent, financial audit report for the preceding fiscal year,
20 as described in subparagraph (I) of paragraph (5) of subdivision
21 (b), to the County Office of Education, State Controller and the
22 ~~State Department of Education~~ *department* by December 15 of
23 each year. This subdivision shall not apply if the audit of the
24 charter school is encompassed in the audit of the chartering entity
25 pursuant to Section 41020.

26 SEC. 9. Section 47607 of the Education Code is amended to
27 read:

28 47607. (a) (1) A charter may be granted pursuant to Sections
29 47605, 47605.5, and 47606 for a period not to exceed five years.
30 A charter granted by a school district governing board, a county
31 board of education or the State Board of Education, may be
32 granted one or more subsequent renewals by that entity. Each
33 renewal shall be for a period of *no less than* five years *and no*
34 *more than 15 years*. A material revision of the provisions of a
35 charter petition may be made only with the approval of the
36 authority that granted the charter. The authority that granted the
37 charter may inspect or observe any part of the charter school at
38 any time.

39 (2) Renewals and material revisions of charters shall be
40 governed by the standards and criteria in Section 47605.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent of Public Instruction copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent of Public Instruction shall review the materials and make recommendations to the chartering authority based on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

1 (D) A charter renewal may not be granted to a charter school
2 prior to 30 days after that charter school submits materials
3 pursuant to this paragraph.

4 (5) Has qualified for an alternative accountability system
5 pursuant to subdivision (h) of Section 52052.

6 (c) A charter may be revoked by the authority that granted the
7 charter under this chapter if the authority finds that the charter
8 school did any of the following:

9 (1) Committed a material violation of any of the conditions,
10 standards, or procedures set forth in the charter.

11 (2) Failed to meet or pursue any of the pupil outcomes
12 identified in the charter.

13 (3) Failed to meet generally accepted accounting principles, or
14 engaged in fiscal mismanagement.

15 (4) Violated any provision of law.

16 (d) Prior to revocation, the authority that granted the charter
17 shall notify the charter public school of any violation of this
18 section and give the school a reasonable opportunity to cure the
19 violation, unless the authority determines, in writing, that the
20 violation constitutes a severe and imminent threat to the health or
21 safety of the pupils.

22 SEC. 10. Section 47634.2 of the Education Code is amended
23 to read:

24 47634.2. (a) (1) Notwithstanding any other provision of law,
25 the amount of funding to be allocated to a charter school on the
26 basis of average daily attendance that is generated by pupils
27 engaged in nonclassroom-based instruction, as defined by
28 paragraph (2) of subdivision (d) of Section 47612.5, including
29 funding provided on the basis of average daily attendance
30 pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be
31 adjusted by the State Board of Education. The State Board of
32 Education shall adopt regulations setting forth criteria for the
33 determination of funding for nonclassroom-based instruction, at
34 a minimum the regulation shall specify that the
35 nonclassroom-based instruction is conducted for the instructional
36 benefit of the pupil and substantially dedicated to that function.
37 In developing these criteria and determining the amount of
38 funding to be allocated to a charter school pursuant to this
39 section, the State Board of Education shall consider, among other
40 factors it deems appropriate, the amount of the charter school's

1 total budget expended on certificated employee salaries and
2 benefits and on schoolsites, as defined in paragraph (3) of
3 subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio
4 in the school.

5 (2) For the 2001–02 fiscal year only, the amount of funding
6 determined by the State Board of Education pursuant to this
7 section shall not be less than 90 percent of the unadjusted amount
8 to which a charter school would otherwise be entitled on the
9 basis of average daily attendance.

10 (3) For the 2002–03 fiscal year, the amount of funding
11 determined by the State Board of Education pursuant to this
12 section shall not be more than 80 percent of the unadjusted
13 amount to which a charter school would otherwise be entitled,
14 unless the State Board of Education determines that a greater or
15 lesser amount is appropriate based on the criteria specified in
16 paragraph (1) of subdivision (a).

17 (4) For the 2003–04 fiscal year and each fiscal year thereafter,
18 the amount of funding determined by the State Board of
19 Education pursuant to this section shall not be more than 70
20 percent of the unadjusted amount to which a charter school
21 would otherwise be entitled, unless the State Board of Education
22 determines that a greater or lesser amount is appropriate based on
23 the criteria specified in paragraph (1) of subdivision (a).

24 (5) This section does not authorize the board to adjust the
25 amount of funding a charter school receives on the basis of
26 average daily attendance generated through classroom-based
27 instruction, as defined for purposes of calculating average daily
28 attendance for classroom-based instruction apportionments by
29 paragraph (1) of subdivision (d) of Section 47612.5.

30 (b) (1) The State Board of Education shall appoint an
31 advisory committee to recommend criteria to the board in
32 accordance with this section if it has not done so by the effective
33 date of the act adding this section. The advisory committee shall
34 include, but is not limited to, representatives from school district
35 superintendents, charter schools, teachers, parents, members of
36 the governing boards of school districts, county superintendents
37 of schools, and the Superintendent of Public Instruction.

38 (2) If a charter school submits a substantially complete request
39 for a determination for funding by February 13, 2002, and the
40 State Board of Education does not act on that request by March

1 19, 2002, full funding is automatically granted for the 2001–02
2 fiscal year, but the charter school shall reapply for a
3 determination for funding for the 2002–03 fiscal year.

4 (3) The determination for funding shall be on a percentage
5 basis and the superintendent shall implement the determination
6 for funding by reducing the charter school’s reported average
7 daily attendance by the determination for funding percentage
8 specified by the State Board of Education.

9 (4) If the State Board of Education denies request for a
10 determination for funding or provides a reduction as authorized
11 by subdivision (a), the board shall, in writing, give the reasons
12 for its denial or reduction and, if appropriate, may describe how
13 any deficiencies or problems may be addressed.

14 (c) Each charter school offering nonclassroom-based
15 instruction shall, in each report provided to the Superintendent of
16 Public Instruction for apportionment purposes, identify the
17 portion of its average daily attendance that is generated through
18 nonclassroom-based instruction as defined in paragraph (2) of
19 subdivision (d) of Section 47612.5.

20 (d) Notwithstanding any other provision of law, charter
21 schools ~~shall be~~ *are* subject, with regard to subdivisions ~~(c) and~~
22 ~~(d) and (e)~~ of Section 47612.5 and this section, to audits
23 conducted pursuant to Section 41020.

24 SEC. 11. Section 47652 of the Education Code is amended to
25 read:

26 47652. (a) Notwithstanding Section 41330, a charter school
27 in its first year of operation ~~shall be or a charter school that~~
28 ~~projects a significant year-to-year growth is~~ eligible to receive
29 funding for the advance apportionment based on an estimate of
30 average daily attendance for the current fiscal year, as approved
31 by the local educational agency that granted its charter and the
32 county office of education in which the charter-granting agency
33 is located. For charter schools approved by the State Board of
34 Education, estimated average daily attendance shall be approved
35 by, and submitted directly to, and approved by, the ~~State~~
36 ~~Department of Education~~ *department*. Not later than five
37 business days following the end of the first 20 schooldays, a
38 charter school receiving funding pursuant to this section shall
39 report to the ~~Department of Education~~ *department* its actual
40 average daily attendance for that first month, and the

1 Superintendent of ~~Public Instruction~~ shall adjust immediately,
2 but not later than 45 days, the amount of its advance
3 apportionment accordingly.

4 (b) A charter school in its first year of operation may only
5 commence instruction within the first three months of the fiscal
6 year beginning July 1 of that year. A charter school shall not be
7 eligible for an apportionment pursuant to subdivision (a), or any
8 other apportionment for a fiscal year in which instruction
9 commenced after September 30 of that fiscal year.

10 (c) *For purposes of this section, "significant year-to-year*
11 *growth" means an increase in average daily attendance due to*
12 *the addition of any grade level or a projected increase in pupil*
13 *enrollment of at least 15 percent.*

14 SEC. 12. If the Commission on State Mandates determines
15 that this act contains costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be
17 made pursuant to Part 7 (commencing with Section 17500) of
18 Division 4 of Title 2 of the Government Code.